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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/267,719	03/11/99	BURKS	A ARK00898103A

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EXAMINER	
HUYNH, P	
ART UNIT	PAPER NUMBER
1644	# 17

DATE MAILED: 03/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/267,719	BURKS ET AL.	
	Examiner	Art Unit	
	" Neon" Phuong Huynh	1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *One* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claims *1-26* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
18) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other: .

DETAILED ACTION

1. **Please note** the location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1644, Group 1640, Technology Center 1600.

2. This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 C.F.R. § 1.821(a)(1) and (a)(2). However, this application fails to comply with sequence rules. Applicant is advised to amend the claims and the specification to include SEQ ID NOS.

3. Claims 1-26 are pending in instant application.

Election/Restrictions

4. Restriction to one of the following inventions is required under 35 U.S.C. 121:

   I. Claims 1-8, and 11, drawn to peanut allergen Ara h1 having tertiary structure, classified in Class 426, subclass 656.

   II. Claim 9, drawn to a method of producing the tertiary structure, classified in Class 435, subclass 69.1.

   III. Claims 10 and 12, drawn to a method of treatment using polynucleotide, classified in Class 514, subclass 44.

   IV. Claims 10 and 12, drawn to a method of treatment using antibody, classified in Class 424, subclass 130.1.

   V. Claims 10 and 12, drawn to a method of treatment using polypeptide, classified in Class 424, subclass 184.1.

   VI. Claim 11, drawn to nucleic acid, therapeutic composition, classified in Class 536, subclass 23.1.

   VII. Claim 11, drawn to antibody, therapeutic composition, classified in Class 530, subclass 387.1.

   VIII. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide AKSSPYQKKT, classified in Class 530, subclass 402.

IX. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide QEPDDLKQKA, classified in Class 530, subclass 402.

X. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide LEYDPRLVYD, classified in Class 530, subclass 402.

XI. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide GERTRGRQPG, classified in Class 530, subclass 402.

XII. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide PGDYDDDRRQ, classified in Class 530, subclass 402.

XIII. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide PRREEGGRWG, classified in Class 530, subclass 402.

XIV. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide REREEDWRQP, classified in Class 530, subclass 402.

XV. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide EDWRRPSHQQ, classified in Class 530, subclass 402.

XVI. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide QPRKIRPEGR, classified in Class 530, subclass 402.

XVI. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide TPGQFEDFFP, classified in Class 530, subclass 402.

XVII. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide SYLQEFSRNT, classified in Class 530, subclass 402.

XVIII. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide FNAEFNEIRR, classified in Class 530, subclass 402.

XIX. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide EQEERGQRRW, classified in Class 530, subclass 402.

XX. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide DITNPINLRE, classified in Class 530, subclass 402.

XXI. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide NNFGKLFEVK, classified in Class 530, subclass 402.

XXII. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide RRYTARLKEG, classified in Class 530, subclass 402.

XXIII. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide ELHLLGFGIN, classified in Class 530, subclass 402.

XXIV. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide HRIFLAGDKD, classified in Class 530, subclass 402.

XXV. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide IDQIEKQAKD, classified in Class 530, subclass 402.

XXVI. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide KDLAFPGSGE, classified in Class 530, subclass 402.

XXVII. Claims 13-14, drawn to a modified allergen consisting of IgE binding peptide KESHFVSARP, classified in Class 530, subclass 402.

XXVIII. Claim 15, drawn to polypeptide of Ara h1 encoded by SEQ ID NO: 1, classified in Class 426, subclass 657.

XXIX. Claim 15, drawn to polypeptide of phaseolin A encoded by SEQ ID NO: 2, classified in Class 530, subclass 350.

XXX. Claim 16, drawn to a DNA clone having homology with OP18 prothymosin alpha, and MM-1, classified in Class 435, subclass 325.

XXXI. Claims 17-19, drawn to T-cell epitopes of Ara h 2 encoded by amino acid 18-28 of SEQ ID NO: 12, classified in Class 530, subclass 300.

XXXII. Claims 17-19, drawn to T-cell epitopes of Ara h 2 encoded by amino acid 45-55 of SEQ ID NO: 12, classified in Class 530, subclass 300.

XXXIII. Claims 17-19, drawn to T-cell epitopes of Ara h 2 encoded by amino acid 95-108 of SEQ ID NO: 12, classified in Class 530, subclass 300.

XXXIV. Claim 20, drawn to a non-anaphylactic T-cell directed immunotherapeutic peptide of amino acid 18-28 of SEQ ID NO: 12, classified in Class 435, subclass 455.

XXXV. Claim 20, drawn to a non-anaphylactic T-cell directed immunotherapeutic peptide of amino acid 45-55 of SEQ ID NO: 12, classified in Class 435, subclass 455.

XXXVI. Claim 20, drawn to a non-anaphylactic T-cell directed immunotherapeutic peptide of amino acid 95-108 of SEQ ID NO: 12, classified in Class 435, subclass 455.

XXXVII. Claims 21-23, drawn to peanut allergen Ara h 3, classified in Class 424, subclass 275.1.

XXXVIII. Claim 24, drawn to isolated polynucleotide encoding peanut allergen Ara h3, classified in Class 536, subclass 23.1.

IXL. Claim 25, drawn to mutated peanut allergen protein, classified in Class 530, subclass 402.

XL. Claim 26, drawn to a method of treating allergy using modified allergen, classified in Class 424, subclass 184.1.

5. The inventions are distinct, each from the other because of the following reasons:

Groups I, VI-IXL encompass separate, distinct and unique products. Allergens, modified allergens, T cell clones, polynucleotide, polypeptide versus antibody differ with respect to their physiochemical properties, structures, and mode of action. A person of ordinary skill in the art would not envision one in view of the other. Therefore, they are patently distinct.

Groups II-V and XL are different methods, which require different ingredients, process steps and endpoint. Therefore, they are patently distinct.

6. Because these inventions are distinct for the reasons given above and the search are not co-extensive and divergent subject matter, restriction for examination purposes as indicated is proper.

7. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Huynh "NEON" whose telephone number is (703) 308-4844. The examiner can normally be reached Monday through Friday from 8:00 am to 5:00 p.m. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

10. Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.

Phuong N. Huynh, Ph.D.
Patent Examiner
Technology Center 1600
March 21, 2001

Patrick J. Nolan, Ph.D.
Primary Examiner
Technology Center 1600

Application No.: 09/267,719

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- [x] 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.
- [ ] 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- [ ] 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- [ ] 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- [ ] 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- [ ] 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- [x] 7. Other: Applicant is reminded to amend the claims and Tables in the specification to include SEQ ID NOS.

Applicant Must Provide:

- [x] An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- [x] An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- [x] A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
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